



COMMODITY FUTURES TRADING COMMISSION
QUARTERLY PERFORMANCE REVIEW

FOURTH QUARTER, FY 2001



QUARTERLY PERFORMANCE REVIEW FOURTH QUARTER, FY 2001

CONTENTS OVERVIEW

Purpose: *The Quarterly Performance Review provides narrative and statistical information regarding how well the CFTC is performing its mission to protect market users and the public from fraud, manipulation, and abusive trading practices related to the sale of commodity futures and options, and to foster open, competitive, and financially sound commodity futures and option markets.*

Part I: Commission Resources

Summary of FY 2001 Commission Funding—By Agency Goal & Outcome Objective	4
Division Staffing Distribution by Outcome Objective.....	5

Part II: Accomplishments

Summary of Division Accomplishments By Agency Goal: <i>Fourth Quarter, FY 2001</i>	7
Division Accomplishments By Agency Goal: <i>Fourth Quarter, FY 2001</i>	9

Part III: Annual Performance Statistics

Summary of Commission Outreach Efforts	26
Analysis of Annual Performance Statistics by Agency Goal: <i>Fourth Quarter, FY 2001</i>	27

Part I: Commission Resources

Summary of FY 2001 Commission Funding

By Agency Goal & Outcome Objective

Outcome Objective by CFTC Goal	FY 2001 \$ (000)
GOAL ONE: Protect the economic functions of the commodity futures and option markets.	
Outcome Objectives	
1.1 Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	\$11,128
1.2 Oversee markets that can be used effectively by producers, processors, financial institutions and other firms for the purposes of price discovery and risk shifting.	1,111
Subtotal Goal One	\$12,239
GOAL TWO: Protect market users and the public.	
Outcome Objectives	
2.1 Promote compliance with and deter violations of federal commodities laws.	\$16,825
2.2 Require commodities professionals to meet high standards.	1,685
2.3 Provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Act.	1,715
Subtotal Goal Two	\$20,225
GOAL THREE: Foster open, competitive, and financially sound markets.	
Outcome Objectives	
3.1 Ensure sound financial practices of clearing organizations and firms holding customer funds	\$2,857
3.2 Promote and enhance effective self-regulation of the commodity futures and option markets.	8,640
3.3 Facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions.	3,217
3.4 Promote markets free of trade practice abuses.	3,407
Subtotal Goal Three	\$18,121
Unallocated	
Unallocated & Prorated ¹	17,265
Subtotal Unallocated	\$17,265
TOTAL	\$67,850

¹ Unallocated & Prorated refers to those resources supporting the offices of the Chairman and the Commissioners (with the exception of the Office of International Affairs); the Office of the Executive Director (with the exception of certain activities of the Office of Information Resources Management); and a very small portion of resources in the Office of the General Counsel. The resources are not originally allocated to a specific strategic goal because, for the most part, the work performed by these offices provides common support across all strategic goals.

Division Staffing Distribution by Outcome Objective
FY 2001
in Full-Time Equivalent (FTE) Hours

Outcome Objective by CFTC Goal	FY 2001 FTEs
GOAL ONE: Protect the economic functions of the commodity futures and option markets.	
Outcome Objectives	
1.1 Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	105.57
1.2 Oversee markets that can be used effectively by producers, processors, financial institutions and other firms for the purposes of price discovery and risk shifting.	11.15
Subtotal Goal One	116.72
GOAL TWO: Protect market users and the public.	
Outcome Objectives	
2.1 Promote compliance with and deter violations of federal commodities laws.	134.25
2.2 Require commodities professionals to meet high standards.	13.65
2.3 Provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Act.	13.87
Subtotal Goal Two	161.77
GOAL THREE: Foster open, competitive, and financially sound markets.	
Outcome Objectives	
3.1 Ensure sound financial practices of clearing organizations and firms holding customer funds.	22.95
3.2 Promote and enhance effective self-regulation of the commodity futures and option markets.	71.43
3.3 Facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions.	26.38
3.4 Promote markets free of trade practice abuses.	27.55
Subtotal Goal Three	148.31
Unallocated	
Unallocated & Prorated	140.20
Subtotal Unallocated	140.20
TOTAL	567.00

Part II: Accomplishments

Summary of Accomplishments by Agency Goal: *Fourth Quarter, FY 2001*

<i>Goal One: Protect the economic functions of the commodity futures and option markets.</i>	
<i>Division/Office</i>	<i>Areas of Accomplishment</i>
Trading and Markets	Nasdaq-LIFFE
Economic Analysis	Contract Market Designations New Contracts and Rule Changes Implementation of the Commodity Futures Modernization Act (CFMA) Market Surveillance Tracking and Maintaining Information Foreign Stock Index Reviews
Enforcement	Manipulation Trade Practice/Front Running
General Counsel	Legislative Support Activities Regulatory Reform
Legislative & Intergov'tal Affairs	Legislative Support Activities Liaison Activities

<i>Goal Two: Protect market users and the public.</i>	
<i>Division/Office</i>	<i>Areas of Accomplishment</i>
Trading and Markets	Notice Registration as Contract Markets for Securities Trading Facilities and Exemption Procedures Notice Registration as Futures Commission Merchants (FCMs) or Introducing Brokers (IBs) for Securities Broker-Dealers Exemptions for Notice Registrants and Others National Futures Association (NFA) Rules Intermediaries Rules Intermediaries Study
Enforcement	Quick Strike Cases Illegal Instruments Cases Commodity Pool Fraud Cases Pool Fraud Case Results Commodity Trading Advisor (CTA) Fraud Cases Trading Systems Case Results Violation of Commission Order Cases Statutory Disqualification
General Counsel	Commission Opinions and Orders Litigation Freedom of Information Act Ethics

COMMODITY FUTURES TRADING COMMISSION: QUARTERLY PERFORMANCE REVIEW

Goal Three: Foster open, competitive, and financially sound markets.	
Division/Office	Areas of Accomplishment
Trading & Markets	Daily Computation of the Amount of Customer Funds Required to be Segregated Derivatives Clearing Organizations (DCOs) EnergyClear Margin for Security Futures Products Treatment of Customer Funds in Connection with Security Futures Product Transactions Response to the Events of September 11, 2001 Chicago Board of Trade (CBOT) Market Surveillance Program New York Cotton Exchange (NYCE) Trade Practice Surveillance and Disciplinary Programs Klein & Company Futures, Inc.
Enforcement	Financial, Supervision, Compliance, and Recordkeeping
International Affairs	IOSCO International Initiatives Technical Assistance
General Counsel	Foreign Stock Index Futures Contracts

All Goals	
Division/Office	Areas of Accomplishment
Executive Director	Information Resources Management Technology Advances Special Events and Training Human Resources Initiatives Administrative Services and Space Management Financial Management Reporting

Division Accomplishments By Agency Goal: *Fourth Quarter, FY 2001*

<i>Goal One: Protect the economic functions of the commodity futures and option markets.</i>

Division of Trading and Markets — Goal One Accomplishments:

Nasdaq-LIFFE – On August 21, 2001, the Commission designated Nasdaq-LIFFE as a contract market for the automated trading of various security product futures contracts. The division will be reviewing aspects of Nasdaq-LIFFE's compliance program to determine whether the exchange has satisfied the various conditions that were imposed by the CFTC when it conditionally designated Nasdaq-LIFFE.

Division of Economic Analysis ³/₄ Goal One Accomplishments:

Contract Market Designations – Market Analysis staff and staff of other divisions participated in reviews of new exchange applications including the applications of Nasdaq-LIFFE which was completed this quarter, as well as pending applications of Hedge Street and NexTrade. Staff also reviewed draft submissions of several other entities.

New Contracts and Rule Changes – Ten new product certification reviews were received during the quarter. The division completed its reviews of the CME benzene xylene and e-mini Russell 2000 futures, the CBT mini-sized Dow, Eurodollars, long-term Treasury notes, and Treasury bond futures. In addition, 47 rule change submissions were received this quarter and seven rule change submissions were approved.

Implementation of the CFMA – Proposed rules to implement the provisions of the CFMA were published in the Federal Register on March 9, 2001 (66 FR 14262). The comment period expired on April 9, 2001. Final rules were published in the Federal Register on August 10, and will become effective on October 9.

Market Surveillance – In the wake of the destruction of the Commission's New York office on September 11, the Market Surveillance staff temporarily switched the operation of the reporting system and the monitoring of the New York futures markets to Chicago and other Commission offices. Once temporary office space was opened in New York and the exchanges resumed trading, the New York staff resumed the surveillance responsibilities for those markets.

Tracking and Maintaining Information – Division staff continued to update information in a database on new exchanges and transaction execution facilities that appear to be offering futures-like products. The database serves as a source of reference information about these new entities, some of which likely will come under Commission oversight under the CFMA.

Foreign Stock Index Reviews – The division continued its review of the Bombay Stock Exchange (BSE) sensitive index, the National Stock Exchange of India S&P CNX nifty index, and the Singapore Exchange S&P CNX nifty index and SGX Strait times Index, Eurex Nemax index, and Swiss market index futures contracts.

Division of Enforcement—Goal One Accomplishments:

Manipulation – During the fourth quarter of FY 2001, the Commission's Enforcement program continued to prosecute cases of price manipulation that harm the integrity of and public confidence in the markets, by distorting the hedging and price discovery functions of these markets and creating an artificial appearance of market activity.

- *In re Eisler and First West Trading, Inc.* - In July 2001, the Commission filed an administrative enforcement action against Norman Eisler and his trading company, First West Trading, Inc. (First West) alleging that from at least August 1999 to May 12, 2000, Eisler manipulated settlement prices of the PSE Technology Index Option contract (P-Tech Options), and in doing so, presented false market information to the NYFE exchange. According to the complaint, Eisler was a member of the New York Futures Exchange (NYFE) settlement

committee and took sole charge of setting the settlement prices of P-Tech Options. As alleged, Eisler traded P-Tech Options through the First West trading account, and his manipulation inflated the value of that account by, on average, an excess of \$2 million each day – an illegal activity that allowed Eisler to avoid or dramatically reduce margin calls against the First West account. On May 15, 2000, when Eisler no longer was involved in setting the P-Tech Options settlement prices, the settlement prices fell significantly, and the value of the First West account plunged to a negative \$4.9 million, according to the complaint. *In re Eisler and First West Trading, Inc.*, CFTC Docket No. 01-14 (CFTC filed July 11, 2001).

- *In re Avista Energy, Inc., et al.* and *In re Johns* - On August 21, 2001, the Commission simultaneously instituted and settled administrative enforcement actions against Avista Energy, Inc. (Avista), an energy marketing and trading subsidiary of the publicly traded diversified energy concern Avista Corporation, and Michael T. Griswold, Avista's former energy trader, and against Thomas A. Johns, Avista's former Vice President of Trading. None of the respondents have ever been registered with the Commission. The Orders found that on four days between April 1998 and August 1998, Avista manipulated the settlement prices of the Palo Verde and California-Oregon-Border electricity futures contracts traded on the New York Mercantile Exchange (NYMEX), in order to increase the company's net gain on certain over-the-counter option positions, whose value was based on the settlement prices at issue. Without admitting or denying liability, the respondents consented to the entry of the Orders that: directed them to cease and desist from further violations as charged; ordered them to pay civil monetary penalties of \$2,100,000 (Avista), \$110,000 (Griswold), and \$50,000 (Johns); imposed trading bans of 18 months (Griswold) and 12 months (Johns); and ordered the respondents to comply with their undertaking to cooperate fully with the Commission and its staff in this proceeding. *In re Avista Energy, Inc., et al.*, CFTC Docket No. 01-21 (CFTC filed August 21, 2001); and *In re Johns*, CFTC Docket No. 01-22 (CFTC filed August 21, 2001). On the same date, the Commission instituted a ten-count administrative action, which remains pending, against William H. Taylor (former Avista Vice President of Trading Strategies), Robert S. Kristufek (former Avista trader), and Anthony J. DiPlacido (NYMEX floor broker) charging them with participating in the manipulative scheme. See *In re DiPlacido, et al.*, CFTC Docket No. 01-23 (CFTC filed August 21, 2001).

Trade Practice – Front Running – The Enforcement program has continued to pursue actions that address specific types of fraudulent trade practices affecting the interests of customers and the integrity of futures markets. For example, during the fourth quarter of FY 2001, the following result in a case in this practice area was achieved:

- *In re Coppola, et al.* - CFTC Docket No. 01-06, Order Making Findings and Imposing Sanctions as to Respondent Vincent Coppola (CFTC entered August 15, 2001) (finding that Coppola, a floor broker who traded at the gold options ring at COMEX, illegally traded ahead of executable customer orders and illegally changed prices on executed customer gold options orders; without admitting or denying the findings, Coppola consented to the entry of the order that directed him to cease and desist from further violations, as charged; imposed a six month registration suspension and trading ban (but allowed him to trade off the floor for his own accounts after the first three months), and a year-long ban on dual trading following the registration suspension period; restricted his registrations for two years after the registration suspension period, and required him to have a sponsor if he acts as a floor broker or floor trader; and ordered \$7,700 in restitution and a contingent \$30,000 civil monetary penalty, payable pursuant to an income-based payment plan).

Office of the General Counsel — Goal One Accomplishments:

Legislative Support Activities – As the Commission's chief legal advisor, OGC advised the Commission concerning the implementation of the CFMA and other legislative and regulatory matters. Staff worked with other federal regulators, particularly the Securities and Exchange Commission (SEC), to promulgate rules relating to trading security futures products.

Regulatory Reform – Staff continued to work with other divisions regarding CFMA initiatives to provide regulatory relief for intermediaries.

Office of Legislative & Intergovernmental Affairs — Goal One Accomplishments:

Legislative Support Activities – OLIA continued to work with the staffs of the House Appropriations Subcommittee on Agriculture, Rural Development, FDA and Related Agencies and the Senate Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies on the Commission's funding request for FY 2002. After the September 11 terrorist attacks, OLIA coordinated CFTC communications with the House and Senate Appropriations Subcommittees on the need for emergency funding to relocate the Commission's New York office and other needs related to the attacks.

Liaison Activities – OLIA provided ongoing information to key Congressional staff regarding the effects of the September 11 attacks on the Commission's staff, operations, and the futures industry. OLIA continued to provide liaison for the Commission with GAO.

Division Accomplishments By Agency Goal: *Fourth Quarter, FY 2001*

<i>Goal Two: Protect market users and the public.</i>
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Division of Trading and Markets $\frac{3}{4}$ Goal Two Accomplishments:

Notice Registration as Contract Markets for Securities Trading Facilities and Exemption Procedures – On August 20, 2001, the Commission approved final rules that establish notice registration procedures permitting national securities exchanges, national securities associations, and alternative trading facilities to be designated contract markets in security futures products. These rules also establish a procedure for these entities to apply for exemptions from duplicative regulation. The rules were published on August 27, 2001 (66 FR 44960).

Notice Registration as FCMs or IBs for Securities Broker-Dealers – On August 10, 2001, the Commission adopted rules concerning a short-form notice registration procedure to permit securities broker-dealers to register as FCMs or IBs, if the only futures-related activity of the firm involves security futures products. The rules were published on August 17, 2001 (66 FR 43080).

Exemptions for Notice Registrants and Others – On August 10, 2001, the Commission adopted rules concerning exemptions from certain CFTC rules for the notice registrants referred to above, as well as persons exempt from floor broker or floor trader registration because their only futures-related activity involves security futures products. The rules were published on August 17, 2001 (66 FR 43083).

NFA Rules – On August 20, 2001, the Commission approved NFA rules related to the trading of security futures products, which NFA adopted in order to become a registered national securities association for the limited purpose of serving as a self-regulatory organization for its members who become notice-registered with the SEC to trade security futures products.

Intermediaries Rules – On August 20, 2001, the Commission republished rule changes to streamline regulations and to eliminate unnecessary regulations affecting intermediaries in the areas of registration procedures and requirements, fitness and supervision, financial and segregated funds requirements, risk disclosure and account statement requirements, trading standards, and recordkeeping matters. The proposed rules were published on August 28, 2001 for a 15-day comment period (66 FR 45221).

Intermediaries Study – On June 22, 2001, the Commission published a notice of solicitation of comments to assist it in conducting a study of the Commodity Exchange Act (CEA or Act) and the Commission's rules and orders governing the conduct of registrants, as mandated by Section 125 of the CFMA. The comment period was 60 days, ending August 21, 2001 (66 FR 33531). Certain commenters requested that the due date for the study set forth in the CFMA, which was December 21, 2001, be postponed. In response to these comments, the Commission sent a letter dated August 22, 2001 to its Congressional oversight committees requesting a six-month extension of the due date, until June 21, 2002.

Division of Enforcement—Goal Two Accomplishments:

Quick-Strike Cases –The Commission is committed to responding quickly to enforcement investigations that uncover ongoing fraud. Quick-strike cases are civil injunctive actions that generally are filed in Federal district courts within days or weeks of the discovery of the illegal activity, enabling the program to stop fraud at an early stage and to attempt to preserve customer funds. During the fourth quarter of FY 2001, the Commission filed the following quick-strike actions:

- *CFTC v. Rothlin and Windsor Capital Management, Inc., et al.*, No. AMD 01 CV2320 (D. Md. filed August 6, 2001) (See Goal Two, Commodity Pool Operator (CPO) Fraud Cases, below);
- *CFTC v. Acro Information Service, Inc., et al.*, No. 01-06926 (C.D. Cal. filed August 9, 2001) (See Goal Two, Illegal Instruments Cases, below);

- *CFTC v. Fintrex, Inc., et al.*, No. 01-06907 (C.D. Cal. filed August 9, 2001) (See Goal Two, Illegal Instruments Cases, below); and
- *CFTC v. Andrew Duncan and The Aurum Society*, No. 01C-6802 (N.D. Ill. filed August 30, 2001) (See Goal Two, CPO Fraud Cases, below).

Illegal Instruments – The Commission investigates and prosecutes the sale of illegal futures and options contracts to the general public. For example, during the fourth quarter of FY 2001 the Commission filed the following enforcement actions in this program area, all of which involved the sale of illegal foreign currency contracts.

- *CFTC v. Acro Information Service, Inc., et al.* - In August 2001, the Commission filed a civil injunctive action against Acro Information Service, Inc. (Acro), Pakco Holdings Limited (Pakco), Dr. Florentius Chan (former owner of Acro), Sandy Chan (former president of Acro), and Andrew Tai Wai (current president of Acro and Pakco) for selling illegal forex futures contracts. The complaint also charged Acro, Pakco, and Dr. Chan with fraudulently operating the forex business, which targeted Asian and other ethnic customers. Since at least December 2000, the complaint alleged, Acro solicited customers by advertising high-income employment opportunities in Asian and other ethnic language newspapers. Customers who responded to the advertisements were offered purported employment trading forex contracts. According to the complaint, to convince customers to trade, Acro told them that forex trading is profitable and involves little risk of loss. Acro then persuaded customers to open accounts to trade for themselves by representing that Acro customers were making money trading. The Commission alleged that almost all Acro customers lost most, or all, of their money. *CFTC v. Acro Information Service, Inc., et al.*, No. 01-06926 (C.D. Cal. filed August 9, 2001). On August 31, 2001, the court entered a consent order of preliminary injunction and statutory restraining order enjoining defendants from further violations as charged, freezing the defendants' assets, and prohibiting them from destroying documents. *CFTC v. Acro Information Service, Inc., et al.*, No. 01-06926, Consent Order of Preliminary Injunction and for Other Equitable Relief (C.D. Cal. entered August 31, 2001).
- *CFTC v. Fintrex, Inc., et al.* - In August 2001, the Commission filed a civil injunctive action against Fintrex Inc. (Fintrex), Arman Ovespyan (Fintrex's owner, president, and general manager), and Lytresse Fox (a general manager and senior broker for Fintrex) for offering illegal forex futures contracts to the retail public. As in the Acro case described above, the amended complaint alleged that Fintrex obtained customers by placing newspaper advertisements that offered free training to persons interested in managing foreign currency accounts or acting as currency traders. According to the complaint, Ovespyan provided two weeks of training and then solicited the trainees to open personal accounts at Fintrex. Fox then conducted the trading activities for Fintrex. The defendants were not regulated financial entities as required by the CFMA to lawfully offer forex contracts to these retail customers. *CFTC v. Fintrex, Inc., et al.*, No. 01-06907 (C.D. Cal. filed August 9, 2001). The court subsequently entered a preliminary injunction and statutory restraining order enjoining defendants from further violations as charged, freezing Fintrex's assets, and prohibiting the defendants from destroying documents. *CFTC v. Fintrex, Inc., et al.*, No. 01-06907, Order of Preliminary Injunction and for Other Equitable Relief (C.D. Cal. entered August 24, 2001).
- *CFTC v. World Banks Foreign Currency Traders, et al.* - In August 2001, the Commission filed a civil injunctive action against World Banks Foreign Currency Traders, Inc. (World Banks), International Investors Trading Group, Inc. (IITG), Daniel Ledoux, Gavin Livoti, and Bryant Crowder. The complaint charged defendants with fraudulent telemarketing of illegal foreign currency options, and alleged that they lured customers with false claims that foreign currency options offered extraordinary profits with little risk. According to the complaint, defendants solicited customers to invest in purported foreign currency investments by claiming that because of falling interest rates, a weakening US dollar, or other market news, the value of the Euro or Japanese yen was poised to skyrocket, allowing quick-acting customers to make huge profits in a matter of weeks or months. At the same time, the complaint alleged, defendants downplayed the risk of loss by promising to watch the market closely and alert customers to get out of the market at the right time. The complaint further

alleged that defendants used high-pressure sales tactics, but became evasive or unavailable when customers inquired about their investments. *CFTC v. World Banks Foreign Currency Traders, Inc. et al.*, No. 01-7402, Complaint for Permanent Injunction and other Equitable Relief (S.D. Fla. filed August 23, 2001). The following day, the court entered a statutory restraining order freezing defendants' assets and ordering them to turn over books and records. *CFTC v. World Banks Foreign Currency Traders, Inc. et al.*, No. 01-7402, Statutory Restraining Order (S.D. Fla. entered August 24, 2001).

Commodity Pool Fraud Cases – During the fourth quarter of FY 2001, the Enforcement program filed the following enforcement actions alleging commodity pool fraud:

- *CFTC v. Peter Scott and Rothlin and Windsor (R&W) Capital Management, Inc.* - In August 2001, the Commission filed a civil injunctive action against Peter Scott and R&W Capital Management, charging them with the fraudulent operation of a commodity pool known as the Rothlin and Windsor Future Fund (Fund). The Commission's complaint alleged that Scott and R&W misappropriated investors' funds for their personal benefit, including the payment of income taxes and the purchase of an automobile. The complaint further charged that defendants issued false account statements and misrepresented to participants the trading and the performance record of the Fund. Scott has admitted that he received over \$2 million from investors, and that he paid himself over \$900,000. *CFTC v. Peter Scott and R&W Capital Management, Inc.*, No. AMD 01 CV2320 (D. Md. filed August 6, 2001). The same day the complaint was filed, the court entered a statutory restraining order freezing the defendants' assets and prohibiting them from destroying documents. *CFTC v. Peter Scott and R&W Capital Management, Inc.*, No. AMD 01 CV2320, Statutory Restraining Order (D. Md. entered August 6, 2001). On August 8, 2001, the court entered a consent order of preliminary injunction enjoining defendants from further violations as charged, and continuing the asset freeze and prohibition against destroying documents entered against them. *CFTC v. Peter Scott and R&W Capital Management, Inc.*, No. AMD 01 CV2320, Preliminary Injunction by Consent of the Parties (D. Md. entered August 8, 2001).
- *CFTC v. Andrew Duncan, et al.* - In August 2001, the Commission filed a civil injunctive action against Andrew Duncan of Toronto, Canada, and his company, Aurum Society, Inc., charging them with fraudulently operating a commodity pool and misappropriating customer funds. The complaint alleged that the defendants fraudulently solicited at least \$3 million from customers in the United States and Canada, claiming that the pool made great profits while, in fact, the pool realized net losses from the start of trading. Specifically, the complaint alleged that Duncan and Aurum Society operated a classic "Ponzi" scheme in which they collected funds from unwitting customers for commodities trading, misused that money, and used new customer funds to repay earlier investors. The complaint further alleged that to conceal their trading losses and misappropriation of funds, defendants issued false reports and made oral misrepresentations to customers concerning the performance record of the pool. *CFTC v. Andrew Duncan and The Aurum Society*, No. 01C-6802, Complaint for Injunctive and Other Equitable Relief and for Civil Penalties under the CEA (N.D. Ill. filed August 30, 2001). The same day the complaint was filed, the court entered a statutory *ex parte* restraining order freezing the assets, and preserving the books and records, of the defendants. *CFTC v. Andrew Duncan and The Aurum Society*, No. 01C-6802, Statutory *Ex Parte* Restraining Order (N.D. Ill. entered August 30, 2001).

Pool Fraud Case Results – During the fourth quarter of FY 2001, the Enforcement program obtained results in the following cases previously filed in the area of pool fraud:

- *CFTC v. Pension America, Inc., et al.* - No. 00-2071 RHK/SRN, Consent Order of Permanent Injunction and Other Equitable Relief Against Defendants William Relf, Specialized Commodity Timing, LLC, and Commodity Timing Specialists, LLC (D. Minn. entered July 2, 2001) and Consent Order of Permanent Injunction and Other Equitable Relief Against Defendants Edward Stevenson Kirris, III and Selective Futures Management, LLC (D. Minn. entered July 5, 2001) (finding that defendants Edward Stevenson Kirris and William Relf committed fraud and registration violations in connection with the operation of defendant commodity pools Selective Futures Management, LLC, Specialized Commodity Timing, LLC, and Commodity Timing Specialists, LLC; enjoined defendants from further violations, as

charged; ordered Kirris and Relf to pay contingent civil monetary penalties of \$561,452 and \$110,000, respectively, pursuant to income-based payment plans, commencing upon the payment of \$561,472 and \$281,652, respectively, in restitution which also is pursuant to payment plans; imposed a permanent trading ban on defendants; and barred defendants from ever seeking registration with the Commission).

CTA Fraud Cases – During the fourth quarter of FY 2001, the Enforcement program achieved the following results in this area:

- *In re Gramalegui* - In July 2001, the Commission filed an order instituting administrative proceedings and simultaneously accepting an offer of settlement from Gregory L. Gramalegui, who was doing business as S&P Safe Co. In its order, the Commission found that Gramalegui used false advertisements in marketing his commodity trading system called Trend Reflection Trading System. Specifically, the order found that Gramalegui made false claims that his mother traded the system, while implying that she profited from doing so. The order found, however, that Gramalegui's mother did not personally trade with the system, but rather Gramalegui made commodity trades in an account in her name, and moreover, the account lost money. The order further found that Gramalegui failed to disclose that Trend Reflection's track record was not a result of actual trading but instead was hypothetical trading. Gramalegui, without admitting or denying the findings, consented to the entry of the Commission order that directed him to cease and desist from further violations, as charged; ordered him to pay a civil monetary penalty of \$10,000; and ordered him to comply with his undertakings not to misrepresent the profits, performance, or results achieved (or that can be achieved) by a trading system, or the risks associated with trading pursuant to a futures or options trading system. *In re Gramalegui*, CFTC Docket No. 01-16 (CFTC filed July 12, 2001).
- *In re Global Telecom, Inc., Cameron Ownbey, RB&H, Financial Services, LP, and In re Pennings and Caulkins* - In July 2001, the Commission filed two related administrative enforcement actions, one against Global Telecom, Inc., Cameron Ownbey, and RB&H, Financial Services, LP (RB&H), and the second against Mark Pennings and Clayton Caulkins. The complaint in the first action alleged that Global Telecom, a registered CTA, and Cameron Ownbey, a principal and registered associated person (AP) of Global Telecom and former AP of RB&H, fraudulently solicited customers in connection with the sale of a commodity trading system. As alleged, Global Telecom promoted and offered to the public a pork belly futures trading system, called the Pro-Managed system, through advertisements in trade magazines, on the Internet, and in free seminars. The complaint alleged that respondents made false promises of huge profits (700 percent) and mischaracterized the system's past performance (300 percent). According to the complaint, a proprietary account that Global Telecom maintained at RB&H consistently lost money trading the system, but respondents did not disclose those losses to clients or prospective clients. The complaint further alleged that Ownbey and others conducted Global Telecom's business from RB&H's offices; that persons who purchased the system also were solicited to open accounts at RB&H, and a majority did so; and that RB&H was aware of Global Telecom's advertisements and was required by its procedures to review them, but did not do so. Based on these allegations, the complaint charges RB&H with liability for the allegedly fraudulent acts of Ownbey and its other employees with respect to customers common to Global Telecom and RB&H and for failing to diligently supervise its employees in their solicitations of customers to open accounts at RB&H. *In re Global Telecom, Inc., et al.*, CFTC Docket No. 01-18 (CFTC July 18, 2001).

On the same day, the Commission filed an order instituting related administrative proceedings and simultaneously accepting offers of settlement from Mark Pennings and Clayton Caulkins, former principals and registered APs of Global Telecom and APs of RB&H. In its order, the Commission found that Pennings and Caulkins fraudulently solicited customers to purchase trading signals for Global Telecom's pork belly trading system and to open accounts at RB&H. Specifically, the order found that Pennings and Caulkins used false advertisements that overstated the performance of the pork belly trading system, misrepresented RB&H's trading results as those of Global Telecom, and omitted the complete results of RB&H's trading program that were significantly worse than the disclosed

results. Without admitting or denying the findings, Pennings and Caulkins consented to the entry of the Commission's order that directed them to cease and desist from further violations, as charged; suspended their AP registrations for six months; ordered them to pay civil monetary penalties of \$27,194 and \$34,500, respectively; and ordered them to comply with their undertakings, including that they not apply for or claim exemption from registration with the Commission for six months. *In re Pennings and Caulkins*, CFTC Docket No. 01-17 (CFTC filed July 18, 2001).

- *In re Sheaves* - In September 2001, the Commission filed an administrative complaint against D. Michael Sheaves, a registered CTA, alleging that Sheaves (doing business as Strategic Trading and Investing) committed solicitation fraud by failing to update reports of earlier trading profits to include subsequent and substantial trading losses. Specifically, the complaint alleged that from May 2000 until at least January 2001, Sheaves solicited customers using a disclosure document that showed profitable results for the first quarter of 2000, but which did not include significant losses that Sheaves suffered while managing customer trading accounts later in the year. The complaint further charged that Sheaves published trading results without disclosing that they were based on hypothetical trading rather than actual trading results. *In re Sheaves*, CFTC Docket No. 01-25 (CFTC filed September 28, 2001).

Trading Systems Case Results – During the fourth quarter of FY 2001, the Enforcement program obtained results in the following cases previously filed in the area of trading systems:

- *In re Donald M. Fishback, Jr., et al.* - CFTC Docket No. 01-02, Order Making Findings and Imposing Remedial Sanctions (CFTC entered July 2, 2001) (finding that Fishback and his company, the Donald M. Fishback Company, Inc., fraudulently solicited members of the public to purchase products and services for trading options on commodity futures; without admitting or denying the findings, the respondents consented to the entry of the order that directs them to cease and desist from further violation, as charged; orders them to pay a \$75,000 civil monetary penalty; and requires them to comply with certain undertakings, including undertakings prohibiting them from making misrepresentations regarding the profits and risks associated with trading futures or options, and requiring them to withdraw all registrations with the Commission and to not seek registration with the Commission for a period of five years).
- *CFTC v. CTS Financial Publishing, Inc., formerly Commodity Trend Service, Inc., et al.* - CFTC Docket No. 00-34, Order Making Findings and Imposing Remedial Sanctions (CFTC entered July 5, 2001) (finding that CTS Financial Publishing Inc., formerly Commodity Trend Service, Inc. (CTS), and related corporate and individual respondents fraudulently solicited customers by, among other things, mailing approximately 1.4 million direct-mail advertisements that repeatedly conveyed the false message that by using CTS products, significant profits would be easily and immediately realized and the risk of loss virtually eliminated or significantly minimized; respondents, without admitting or denying the findings, consented to the entry of the Commission's order that directed them to cease and desist from further violations, as charged; ordered them to pay a civil monetary penalty of \$220,000, for which they are jointly and severally liable; and ordered CTS to comply with its undertakings requiring, among other things, that it have all advertisements, promotions, or solicitations reviewed by legal counsel for compliance with the Act and the Commission's regulations prior to dissemination).

IB Solicitation Fraud Cases – During the fourth quarter of FY 2001, the Commission devoted time and attention to matters involving violations by registered IBs and their APs. Such cases often involve fraudulent misrepresentations, usually to retail customers, to induce them to invest. Described below are the two enforcement actions the Commission filed in this program area during the past quarter.

- *In re Gladstone* - In September 2001, the Commission filed an administrative enforcement action against Alfred A. L. Gladstone, formerly a registered AP with the Los Angeles branch of the commodity firm FSG International Inc. The complaint alleged that Gladstone had fraudulently solicited customers with false claims of large profits and misrepresentations of

the performance record of his customers. The complaint also alleged that in sharp contrast to Gladstone's promises of "sure bets" and tripled investments, and his representation that all his customers were making money, in fact nearly 99 percent of Gladstone's customers who closed accounts over a two-year period lost all or virtually all of their invested funds, with trading losses totaling over one million dollars. *In re Gladstone*, CFTC Docket No. 01-24 (CFTC filed September 4, 2001).

Violation of Commission Order Cases - During the fourth quarter of FY 2001, the Commission pursued the following enforcement action alleging violation of a prior Commission order.

- *In re Lee* - In July 2001, the Commission filed an order instituting administrative proceedings and simultaneously accepting an offer of settlement from Michael Thomas Lee, a registered floor broker at the CME. In its order, the Commission found that Lee had failed to abide by his obligation under a previous order that required him to supervise Brian Ray, another CME floor broker. In December 1997, the CME had found Ray guilty of trading violations in the S&P 500 futures pit. Following this disciplinary action, the NFA, an industry self-regulatory organization acting on authority delegated to it by the Commission, issued an order placing restrictions on Ray's registration for two years and requiring Ray to find an industry sponsor before resuming trading. Under the Act, this NFA order is considered an order of the Commission. On January 29, 1999, Lee signed a Supplemental Sponsor Certification Statement that detailed his duties as Ray's sponsor. The Commission order of July 2001 found that Lee had failed to meet the requirements imposed by both the NFA order and the Sponsor Certification to, among other things, conduct weekly reviews of account statements and maintain records of those weekly reviews. Lee, without admitting or denying the findings, consented to the entry of the Commission order that directed him to cease and desist from further violations, as charged; suspended Lee's registration as a floor broker for 30 days; required him to pay a civil monetary penalty of \$12,500; and prohibited Lee from sponsoring any conditioned or restricted registrant for a period of three years. *In re Lee*, CFTC Docket No. 01-15 (CFTC filed July 12, 2001).
- *CFTC v. Heffernan* - In September 2001, the Commission filed a civil injunctive action against George Heffernan, who was not registered with the Commission in any capacity, charging him with fraudulently promoting a commodity futures trading system and other services over his Internet Web site, in violation of a prior Commission order issued against him in September 2000 based on the same type of fraudulent conduct. The complaint alleged that in his solicitations, Heffernan claimed that his trading technique resulted in profitable trades a high percentage of the time. Specifically, the complaint charged, Heffernan stated (among other things) that his recommendations were 90 percent accurate approximately one trade per day and 80 to 85 percent accurate approximately eight trades per day, and claimed that it was possible to make \$500 a day or \$10,000 a month for part-time work of a couple hours a day. Heffernan's records, according to the complaint, do not sustain his claims for accuracy or profitability, and his personal trading was a net loss over the relevant period. In settling the earlier case, Heffernan was ordered to cease and desist from violating the Act in the manners alleged in that action, and he undertook not to misrepresent the performance, profits, or results achieved (or that might be achieved) by any trading system. The complaint in the current civil injunctive action alleged that Heffernan's continuing fraudulent conduct violated the Act and Commission regulations, as well as the cease and desist order and failed to comply with his undertakings pursuant to the prior Commission order. *CFTC v. Heffernan*, No. CIV 101-141 (S.D. Ga. filed September 11, 2001).
- *CFTC v. Coleman d/b/a Granite Investments* - In September 2001, the Commission filed a civil injunctive action against Ellery Coleman d/b/a Granite Investments, who was not registered with the Commission in any capacity, charging him with fraudulently promoting a commodity futures trading system for daytrading S&P futures and other services over his Internet Web site, in violation of a prior Commission order issued against him in May 2000 based on the same type of fraudulent conduct. The complaint alleged that in his solicitations, Coleman claimed that his systems have generated significant profits, but did not reveal that the profits claimed were based on hypothetical trading, not actual trading. The complaint further alleged that in communications with clients, Coleman spoke of specific profitable trades he had made, none of which actually were executed, and falsely suggested that the

Commission had approved or passed on his abilities. In settling the earlier case, Coleman was ordered to cease and desist from violating the Act in the manners alleged in that action, and he undertook not to misrepresent the performance, profits, or results achieved (or that might be achieved) by any trading system, and not to use hypothetical trading results without clearly identifying that they are hypothetical. The complaint in the current civil injunctive action alleged that Coleman's continuing fraudulent conduct violated the Act and Commission regulations, as well as the cease and desist order, and failed to comply with his undertakings pursuant to the prior Commission order. *CFTC v. Coleman d/b/a Granite Investment*, No. CIV 0362-3 (M.D. Ga. filed September 13, 2001).

Statutory Disqualification – The Commission investigates and prosecutes administrative registration cases based on statutory disqualification (SD). During the fourth quarter of FY 2001, the Commission filed the following SD actions:

- *In re Excellent USA, et al.* - In August 2001, the Commission filed a Notice of Intent to Suspend, Revoke or Restrict Registration against Excellent USA, Inc., a registered non-clearing FCM. The Commission's notice alleged that the trading of two Japanese firms through omnibus accounts at Excellent accounted for nearly all of Excellent's business. According to the notice, these Japanese firms regularly placed spread orders—including simultaneously entered orders to buy and sell the same spread—that resulted in the omnibus accounts holding an almost equal and offsetting position in each futures month, which thus had the appearance of improper wash sales. The notice charged that Excellent was subject to statutory disqualification from registration based on the criminal conviction of Toshio Yokoyama, a principal of Excellent and the two Japanese firms. Yokoyama was convicted in Japan of cheating and defrauding Japanese customers in connection with the futures trading of the Japanese firms in the US. *In re Excellent USA, Inc. et al.*, CFTC Docket No. SD 01-01 (CFTC filed August 20, 2001).
- *In re Trendsystems, Inc.* - On October 24, 2000, the Commission filed a Notice of Intent to Suspend, Revoke or Restrict Registration against Trendsystems, Inc., a registered CTA, and simultaneously accepted an offer of settlement from Trendsystems. The Commission's notice alleged, and its order found, that Trendsystems was subject to disqualification from registration based on a consent order of permanent injunction entered against it on August 21, 2001 finding that Trendsystems committed fraud as a CTA. See *CFTC v. Stephens et al.*, No. 1:00-CV-0184-4 Consent Order of Permanent Injunction and Other Equitable Relief (M.D. Ga. entered August 21, 2001). Without admitting or denying the findings, Trendsystems consented to the entry of the Commission's order that revoked its registration as a CTA. *In re Trendsystems, Inc.*, CFTC Docket No. SD 01-02 (CFTC filed August 24, 2001).

Office of the General Counsel $\frac{3}{4}$ Goal Two Accomplishments:

Commission Opinions and Orders – OGC assisted the Commission in deciding administrative adjudicatory matters. The Commission issued decisions resolving appeals in two enforcement cases and six reparations cases. The decision in *In re Riley* affirmed an Administrative Law Judge's (ALJ's) conclusion that respondent was unfit for registration as a floor broker, while the decision in *In re Zuccarelli* concluded that additional proceedings were required because an ALJ had denied respondent a fair opportunity to present expert testimony in support of his continued registration. The decision in *Violette v. LFG, L.L.C.* vacated a Judgment Officer's award of damages for unauthorized trading. In explaining its decision, the Commission emphasized that there were comparable flaws in the testimony offered by the complaining customer and the respondent account executive, but noted that the flaws in the customer's testimony were outcome determinative because he bore the burden of proving that his allegations were supported by the weight of the evidence.

Litigation – OGC defended the Commission in more than 12 active appellate cases during the quarter, obtaining favorable outcomes in *CFTC v. Infinite Trading Group* (11th Cir.) and *In re Armstrong* (2nd Cir.). In addition, OGC initiated the Commission's appeal from an adverse district court decision in *CFTC v. R.J. Fitzgerald*, (11th Cir.) and filed the Commission's principal brief in another appeal, *CFTC v. Mass Media Marketing* (11th Cir.). OGC also prepared an opposition to a petition for writ of *certiorari* in *Busch v. CFTC* (S. Ct.). In the district courts, on behalf of the

Commission, OGC continued to oppose a renewed request for attorney fees in *Taucher v. Rainer* (D.D.C.) and participated in pre-trial discovery in an equal employment opportunity case in *Forkkio v. Rainer* (D.D.C.).

In addition, OGC defended the Commission in an appeal from a bankruptcy court opinion, *Inskeep v. MeesPierson*, No. 00 C 2056 (N.D. Ill.) (appeal from Bankruptcy Court decision invalidating regulation). OGC actively participated in four other bankruptcy proceedings; in three of those cases, OGC initiated or prepared to initiate adversary proceedings to prevent the discharge through bankruptcy of restitution or disgorgement judgments the Commission had obtained in enforcement actions.

Finally, OGC defended the Commission's interests in personnel cases and in third-party district court litigation, primarily matters involving demands for Commission records or for the testimony of Commission personnel. In the personnel arena, OGC obtained favorable outcomes in *White v. Newsome* (EEOC) and *Garner v. CFTC* (MSPB) (case dismissed as premature).

Freedom of Information Act (FOIA) – Staff advised the Commission on novel issues arising under the FOIA and the Privacy Act, assisted the Office of the Executive Director (OED) in its review of Privacy Act systems of records, and counseled the divisions in connection with FOIA requests for documents. Staff continued to oversee the review and production of documents related to the Sumitomo and Merrill Lynch proceedings and to work with outside counsel on related subpoenas. Staff has initiated meetings with the Commission's FOIA Compliance staff to train agency support staff and staff of the regional offices in basic FOIA law.

Ethics – Staff assisted Commission employees with the preparation and filing of annual financial disclosure documents, and reviewed and approved a number of disclosure documents. Staff also counseled departing senior staff with respect to post-employment restrictions and termination financial disclosure reports. In addition, OGC has commenced a review of the Commission's ethics program and responsibilities with a view to making changes in staffing and procedures and, in cooperation with OHR, is preparing to implement procedures for electronic filing of financial disclosure reports. Staff has initiated enhanced training of OHR staff and has advised the Commission on matters involving the Commission's independent conduct regulations.

Division Accomplishments By Agency Goal: *Fourth Quarter, FY 2001*

Goal Three: Foster open, competitive, and financially sound markets.

Division of Trading & Markets^{3/4} Goal Three Accomplishments:

Daily Computation of the Amount of Customer Funds Required To Be Segregated – On August 7, 2001, the Commission amended Rule 1.32 to permit an FCM, in computing the amount of customer funds required to be held in segregated accounts pursuant to Section 4d of the Act, to offset a net liquidating deficit or debit ledger balance in a customer's account with securities that have a "ready market", as defined by Rule 15c3-1(c)(11) of the SEC, and that are deposited by such customer to margin or guarantee the futures and option positions in such customer's account (66 FR 41131).

Derivatives Clearing Organizations (DCOs) – On August 22, 2001, the Commission adopted final rules to specify the form and to provide guidance for the content of applications for DCO registration, and the procedures for processing DCO registration applications. The rules were published on August 29, 2001 (66 FR 45604).

EnergyClear – On July 9, 2001, the Commission approved the application of EnergyClear Corporation for registration as a DCO under the Act. This is the first new DCO that is not affiliated with a trading facility to be granted registration by the Commission since the passage of the CFMA.

Margin for Security Futures Products – On September 26, 2001, the Commission and the SEC jointly proposed rules to govern customer margin for security futures products, pursuant to authority delegated by the Federal Reserve Board in March 2001 to both agencies. The proposed rules were published on October 4, 2001 for a 30-day comment period (66 FR 50719).

Treatment of Customer Funds in Connection with Security Futures Product Transactions – On September 26, 2001, the Commission and the SEC, in consultation with the Securities Investor Protection Corporation, jointly proposed rules concerning the treatment of customer funds for trading security futures products. The proposed rules were published on October 4, 2001 for a 30-day comment period (66 FR 50785).

Response to the Events of September 11, 2001 – On September 19, 2001, the Commission issued a statement of policy advising registrants that as a result of the financial market disruptions caused by the terrorist attacks on September 11, 2001, the Commission had determined to provide temporary relief from compliance by registrants with certain regulatory requirements, including certain required computations, filing deadlines, and recordkeeping requirements. The Commission recognized that circumstances may make additional relief appropriate in certain cases and encouraged affected registrants to contact NFA, their designated self-regulatory organization, or Commission staff in that regard.

Chicago Board of Trade (CBOT) Market Surveillance Program – On July 25, 2001, the Commission received a rule enforcement review of the market surveillance program of the CBOT. In its review, division staff found that the CBT operates an effective market surveillance program and made one recommendation for improvement.

New York Cotton Exchange (NYCE) Trade Practice Surveillance and Disciplinary Programs – Staff completed a rule enforcement review of the trade practice surveillance and disciplinary programs of the NYCE. In its review, staff found that the NYCE had adequate programs in the areas reviewed and made recommendations for improvements regarding trade practice surveillance and customer restitution.

Klein & Company Futures, Inc. – The division issued a report and made appropriate recommendations on events leading to the problems at Klein & Company Futures, Inc.

Division of Enforcement—Goal Three Accomplishments:

Financial, Supervision, Compliance and Recordkeeping – In its efforts to promote sound practices of firms handling customer funds, the Commission investigates and prosecutes registrants' failures to supervise diligently the handling of customer accounts and to establish adequate compliance systems to prevent fraud or market abuse, as well as other financial violations. The Commission filed the following case, and achieved the following result, in this program area during the fourth quarter of FY 2001:

- *In re New York Futures Exchange* - In July 2001, the Commission simultaneously instituted and settled an administrative enforcement action against the NYFE. The Commission's order found that a member of the NYFE settlement committee manipulated settlement prices of the PSE Technology Index Option contract and, in doing so, presented false market information to the NYFE.

The Commission's Order further found that NYFE had no procedure in place to ensure that its settlement committee complied with the NYFE settlement prices rule for P-Tech Options, beyond NYFE's reliance on self-policing by its settlement committee and other market participants. Without admitting or denying the findings, NYFE consented to the entry of the Order that imposed a civil monetary penalty of \$75,000. *In re New York Futures Exchange, Inc.*, CFTC Docket No. 01-13 (CFTC filed July 11, 2001).

- *In re Excellent USA, et al.* - In August 2001, the Commission filed an administrative complaint against Excellent USA, Inc., a registered non-clearing FCM and its managing director, John F. Gallwas. The complaint charged that Excellent and Gallwas did not have an adequate system of supervision in place to monitor the trading in the omnibus accounts of two Japanese firms that accounted for nearly all of Excellent's business. According to the complaint, Excellent and Gallwas ignored various warning signs that the Japanese firms were engaged in customer fraud. Specifically, the complaint alleged, Excellent and Gallwas regularly accepted spread orders from the Japanese firms—including simultaneously entered orders to buy and sell the same spread—that resulted in the omnibus accounts holding an almost equal and offsetting position in each futures month. Although this alleged trading had the appearance of improper wash sales, Excellent and Gallwas never sought clarification of the customers' intent or questioned the Japanese firms. *In re Excellent USA, Inc. and John F. Gallwas*, CFTC Docket No. 01-20 (CFTC filed August 20, 2001).

On the same day, the Commission filed an order instituting an administrative proceeding and simultaneously accepting an offer of settlement from LFG, L.L.C., a registered FCM. The order found that Excellent transmitted the orders to LFG's grain desk at the CBOT, and that LFG accepted the suspicious spread orders described above, without inquiring into the trading or the intent of customers and despite the unusual trading patterns evident in LFG's daily equity runs. The order also found that LFG had no written procedures relating to the supervision of foreign omnibus accounts, and that no one at LFG had responsibility for monitoring those accounts. The order found that, as a result, LFG contributed to the failure to provide adequate customer protection to foreign retail customers who traded in US futures markets. Without admitting or denying the findings, LFG consented to the entry of the Commission's order that declined to impose sanctions in light of LFG's filing for bankruptcy protection, but that ordered LFG to comply with its undertakings to, among other things, complete its withdrawal from registration as an FCM, and to never apply for registration or seek exemption from registration, or engage in any activity requiring registration or exemption from registration. *In re LFG, L.L.C.*, CFTC Docket No. 01-19 (CFTC filed August 20, 2001).

The Commission received the cooperation of the Japanese Government and the CBOT in its investigation of this matter.

- *In re Frederick J. Mersch* - CFTC Docket No. 01-02, Order Making Findings and Imposing Sanctions (CFTC entered September 4, 2001) (finding that the respondent exceeded the trading limits for CME frozen pork belly contracts on five separate dates while trading for his own account and on behalf of other accounts he controlled; without admitting or denying the

findings, Mersch consented to the entry of the Commission's order that: directed him to cease and desist from further violations, as charged; ordered him to pay a civil monetary penalty of \$25,000; imposed a two-year trading ban; and required him to comply with certain undertakings, including that after the trading ban is lifted, Mersch will obtain written authorization before trading or entering commodity orders for others, and give written authorization to anyone entering orders for his personal trading accounts).

Office of International Affairs ³/₄ Goal Three Accomplishments:

IOSCO – OIA staff continued to coordinate the Commission's activities within the Technical Committee of IOSCO, including participating in a joint task force with the Committee on Payment and Settlement Systems which finalized a paper making recommendations for settlement systems; an implementation task force that is preparing surveys for, and analyzing responses to, high-level self-assessments by IOSCO members on the extent to which the *Objectives and Principles of Securities Regulation (Core Principles)* have been implemented; the standing committee on secondary markets which is preparing a study on the effectiveness of trading halts and completed a preliminary paper on the transparency needs of markets; and the standing committee on market intermediaries which is completing reports on operational risk, liquidity practices of intermediaries, and the regulatory implications of cross-border transactions.

International Initiatives – OIA continued to coordinate the Commission's responses to position papers distributed by the US Department of the Treasury.

Technical Assistance – OIA completed planning for the Commission's annual seminar in Chicago. OIA finalized an arrangement with the Inter-American Development Bank to provide funds to support training opportunities by Latin American regulators attending Commission programs.

Office of the General Counsel ³/₄ Goal Three Accomplishments:

Foreign Stock Index Futures Contracts – The staff has continued to work on the disposition of requests to permit the offer and sale in the US of foreign stock index futures contracts.

Division Accomplishments By Agency Goal: *Fourth Quarter, FY 2001*

All Goals

Office of the Executive Director ^{3/4} All Goals Accomplishments:

Information Resources Management –To further improve Commission information technology security, a new email policy was implemented to reduce the possibility of viruses entering CFTC systems via email, new virus detection software was installed, and the Commission's firewall was modified. Following the destruction of the New York Regional Office, network infrastructure was established in its temporary office and necessary equipment for telecommuting was provided for New York staff. Enhancements to the integrated surveillance system and to the exchange database system were released to address known issues. Version 2.0 of the designation and rules tracking system was released to improve the system's functionality.

Technology Advances – OHR and OIRM continued to prepare for the implementation of the National Finance Center's (NFC) new STAR system. OHR implemented an automated announcement, registration, and reminder system for the Commission's Training Program; attendance is tracked using an ACCESS database. OHR continued to work with NFC to make available to CFTC staff electronically fillable and reusable ethics forms (OGE 450 and SF 278) through the NFC's Personal Page interface. Additional revisions were made to the SF 52 and applicant tracking systems. OHR continued testing EPIC, personnel action processing software, and the secure telecommunications link to the NFC. Several interactive forms were made available to staff through the Commission's intranet.

Special Events and Training – In response to the September 11 attacks and the destruction of the Commission's New York Regional Office, OHR coordinated a rapid response system. Policy guidance was provided to staff and managers on many issues including leave, emergency dismissal and closings. Response to Workers' Compensation claims was coordinated with the Department of Labor. Employee Assistance Program sessions were made available to all Commission staff and individual sessions were arranged as required. Special material and information was made available to staff and managers and the agency's websites were utilized to disseminate information quickly.

The 2001 Summer Intern Program concluded with the final four sessions of the program, including an interactive session, *Visit with the Chairman*, and a new session, *Commodity Exchange Act: Practice and Procedure*. The 106-session FY 2001 Training Program concluded with an overall 35 percent increase in curriculum offerings. The Training Advisory Group approved a Training Needs Assessment instrument to survey customer needs.

The first Mobile Preventive Health Screening Series for Stroke, Cardio, and Osteoporosis was completed at the Commission. The preventive health program series continued with diabetes and blood pressure screening. Workshops on *Stress Management* and *The Impact of Alcoholism on the Family* were held in the Chicago Regional Office. Comprehensive physical examinations were made available to agency staff.

Human Resources Initiatives – OHR is making a new web-based research tool, cyberFEDs, available to agency managers and supervisors. This tool includes resources on a wide range of topics including attendance, EEO and diversity, performance management, recruitment and reasonable accommodation. The Commission's Alternative Dispute Resolution Program continued with several mediations of workplace disputes. OHR provided support to the agency's workforce planning efforts by providing guidance and information on various personnel issues.

Administrative Services and Space Management – OFM managed the Commission's real estate portfolio of approximately 250,000 rentable square feet of office space for headquarters and five regions. Considerable effort was dedicated to selecting new office space for the Commission's Chicago Regional Office and negotiating terms of the transaction. Contracts were awarded for architecture and engineering services and for project management and legal services. The office move is expected to occur in early spring 2002.

The September 11 destruction of the World Trade Center required relocation of the Commission's New York Regional Office. Short-term and long-term office space has been located and the Commission is negotiating lease agreements. Detailed planning for the long-term space is in process.

New policies were issued on printing, letterhead use, and transportation services. These policies are intended to streamline and improve customer service in these areas.

OAS and OFM awarded contracts for repainting in Headquarters and for several small construction projects to better utilize existing space.

Financial Management – The FY 2001 Annual Performance Report and the FY 2003 Budget and Annual Performance Plan were submitted to the Office of Management and Budget. Commission staff briefed staff of Congressional appropriations committees on the FY 2002 appropriation. OFM planned and coordinated the FY 2001 year-end closing process for the financial management system. A travel audit plan was implemented in the regional offices. OFM implemented transition to a new travel management center, Potomac Falls Travel, for all CFTC travelers. Government Information Security Reform Act (GISRA) program reviews were completed for the Commission's financial management and travel manager systems and for agency use of the Treasury Electronic Certification System.

Reporting – OHR provided the following reports to OPM: monthly welfare-to-work reports; quarterly Delegated Examining Unit; Schedule C Employment; impact of hiring controls on agency staffing requests; FY 2001 Drug-Free Workplace Report; annual Labor Management Relations Report; and Personnel Security Assessment.

Part III: Annual Performance Statistics

Summary of Commission Outreach Efforts

Fourth Quarter, FY 2001

Non-Recurring Outreach Efforts:

Quarterly meetings of Acting Chairman Newsome and leaders of Exchanges
Congressional briefings with OLIA staff

Recurring/Established Outreach Efforts:

Advisory

Agricultural Advisory Committee
Technology Advisory Committee
Global Markets Advisory Committee

Federal and State Working Relationships

President's Working Group on Financial Markets
US Department of Agriculture
Securities and Exchange Commission
Department of the Treasury
Board of Governors of the Federal Reserve System
New York Federal Reserve Bank
Federal Deposit Insurance Corporation
Department of Energy
Department of Labor's Bureau of Labor Statistics
Department of Justice
Federal Bureau of Investigation
Federal Trade Commission
US Postal Inspection Service

Self-Regulatory

National Futures Association quarterly meetings

International

Foreign regulatory authorities
International Organization of Securities Commissions (IOSCO)

List of Interested Parties

All Exchanges and Self-Regulatory Organizations
Public
Congress
The Administration
Market Professionals
Market Users
Foreign Authorities
Federal Departments and Agencies

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001*²**Goal One: Protect the economic functions of the commodity futures and option markets.****Outcome Objective 1.1:** *Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity. (Activities 1.1.1 through 1.1.10)***Annual Performance Goal:** No price manipulation or other disruptive actions.**Activity 1.1.1: Collect US futures and option large trader and exchange-generated data for all actively trading contracts to support market surveillance, enforcement of speculative limits, dissemination of information to the public, and futures market studies and research by Commission staff and others.**

Activity 1.1.1 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Amount of large trader and exchange-generated reports collected from firms.	52,400,000	13,013,125	14,283,578	14,766,214	14,971,000	57,033,917	109%
Number of projects/measures intended to reduce reporting burdens and related costs on exchanges.	5	0	0	1	0	1	20%

Activity 1.1.2: Monitor the markets to detect and respond quickly to potentially disruptive situations such as market congestion and/or potential price manipulation.

Activity 1.1.2 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of active futures and option markets.	275	258	244	238	253	N/A	N/A
Number of market surveillance reports prepared on expiring contracts for indications of price manipulation or other market disruptions.	2,100	477	449	486	461	1,873	89%
Number of market surveillance analyses prepared and presented at Commission briefings.	280	68	90	80	80	318	114%
Number of markets requiring intensified surveillance to prevent market manipulation.	20	2	3	4	2	11	55%
Number of derivatives transaction facilities monitored.	5	0	0	0	0	0	0%

² TBD on FY 2001 Targets means that the statistics have not been previously tracked. A tracking system is currently in place to provide targets for future years. N/A means that the calculation can not be mathematically performed.

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001***Goal One: Protect the economic functions of the commodity futures and option markets.***Outcome Objective 1.1 (Cont'd.)*

Activity 1.1.3: Conduct timely review of new contract market designation applications and DTF registration applications to determine if they meet statutory requirements and comply with core principles.

Activity 1.1.3 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of new contract market designation application reviews completed.	5	0	1	1	1	3	60%
Number of derivative transaction execution facility registration application reviews completed.	2	0	0	0	0	0	0%

Activity 1.1.4: Identify possible manipulation and other abusive trading practices for investigation and possible enforcement or criminal action.

(Measure deleted in FY 2001)

Activity 1.1.5: Investigate possible manipulation and other abusive trading practices.*

Activity 1.1.5 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of such investigations opened during the reporting period.	12	4	3	5	3	15	125%
Number of such investigations closed during the reporting period.	TBD	1	0	2	6	9	N/A
Number of such investigations pending at close of the reporting period.	16	16	19	22	19	N/A	N/A
Number of such investigations closed or resulting in the filing of an enforcement case during the reporting period.**	12	1	2	3	6	12	100%
During the reporting period, the number of such investigations closed or resulting in an enforcement case within one year of opening the related investigation.	6	0	2	2	1	5	83%

*Individual Enforcement investigations and cases frequently concern issues that span more than one strategic goal. Accordingly, all performance indicators are reflected in each outcome objective achieved throughout the course of a matter. So, for example, if a case is filed which contains allegations of trade practice violations as well as supervision failures, that case will be reflected in the appropriate places under Goals One, Two, and Three.

** An Enforcement investigation can remain open after a related case has been filed.

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001***Goal One: Protect the economic functions of the commodity futures and option markets.***Outcome Objective 1.1 (Cont'd.)***Activity 1.1.6: Institute enforcement cases concerning manipulation and other abusive trading practices.**

Activity 1.1.6 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of such cases filed during the reporting period.	3	2	2	1	3	8	267%
Number of such cases completed during the reporting period.	3	0	0	1	2	3	100%
Number of such cases pending at the close of the reporting period.	13	12	14	14	15	N/A	N/A
During the reporting period, the total number of such cases filed within one year of opening the related investigation.	0	1	2	1	1	5	N/A

Activity 1.1.7: Sanction violators.*

Activity 1.1.7 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Amount of disgorgement or restitution ordered.	\$100,000	\$0	\$19,900	\$18,750	\$70,148	\$108,798	109%
Amount of civil penalties.	\$1,000,000	\$0	\$50,000	\$30,000	\$2,446,835	\$2,526,835	253%
Number of cease and desist orders.	4	0	1	1	3	5	125%
Number of registration sanctions.	3	0	1	1	1	3	100%
Number of trading prohibitions.	3	0	1	1	3	5	167%

*This Quarterly Performance Review only reflects sanctions that have become final by the close of the reporting quarter. Thus the output measures reported here include only sanctions in settled matters; unappealed decisions of the Commission, US District Courts, or US Circuit Courts of Appeals; and decisions of the US Supreme Court.

Activity 1.1.8: Conduct timely reviews of exchange's requests for approval of products or rule changes to determine if they are economically viable and do not pose a likelihood of disruption in the cash, futures, and option markets.

Activity 1.1.8 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of new contract approval requests reviewed	15	1	0	10	0	11	73%
Number of economic reviews of rule change approval requests reviewed	50	22	3	8	7	40	80%

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001***Goal One: Protect the economic functions of the commodity futures and option markets.***Outcome Objective 1.1 (Cont'd.)*

Activity 1.1.9: Conduct reviews of products and rule changes submitted under certification procedures to support market surveillance, enforcement of speculative limits, and to determine if the contracts are viable and pose a likelihood of disruption in the cash, futures, and option markets.

Activity 1.1.9 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Presurveillance reviews of new contract certification filings	15	1	5	0	11	17	113%
Reviews of rule amendment certification filings	25	2	8	69	47	126	504%

Activity 1.1.10: Conduct reviews of exempt markets and monitor the markets consistent with statutory requirements.

Activity 1.1.10 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of reviews related to exempt market filings	2	0	1	1	1	3	150%
Number of letters/no-actions issued related to requests for guidance	2	0	0	0	0	0	0%

Outcome Objective 1.2: *Oversee markets that can be used effectively by producers, processors, financial institutions, and other firms for the purposes of price discovery and risk shifting.*
(Activities 1.2.1 through 1.2.3)

Annual Performance Goal: No decrease in market use by producers, processors, financial institutions, and other firms because of loss of confidence in the price discovery and risk shifting functions of the markets.

Activity 1.2.1: Participate in the President's Working Group on Financial Markets to ensure coordination of information and efforts among US financial regulators.

Activity 1.2.1 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of President's Working Group meetings held (includes Steering Committee meetings).	24	6	6	6	6	24	100%
Number of President's Working Group meetings attended (includes Steering Committee meetings).	24	6	6	6	6	24	100%

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001***Goal One: Protect the economic functions of the commodity futures and option markets.***Outcome Objective 1.2 (Cont'd.)***Activity 1.2.2: Maintain a current understanding of market functions and developments through studies and research.**

Activity 1.2.2 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of ongoing market research projects and studies.	12	3	3	3	3	12	100%
Number of market research projects and studies completed.	12	3	3	3	3	12	100%

Activity 1.2.3: Provide materials and information on the functions and utility of the markets to the public through public Commission meetings, public roundtables, advisory committee meetings, symposia, US Department of Agriculture publications, press releases, advisories, routine reports on large trader activity, etc.

Activity 1.2.3 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of public roundtable presentations.	3	0	0	0	0	0	0%
Number of Advisory Committee meeting presentations.	3	0	4	1	0	5	167%
Number of routine large trader reports published.	7,200	1,352	1,313	1,495	1,050	5,210	72%
Number of requests for data from universities and private sources.	10	3	2	3	2	10	100%
Number of requests fulfilled.	10	3	2	3	2	10	100%
Number of large trader reports (routine and special) provided to other US financial regulators.	28	7	7	7	7	28	100%

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001***Goal Two: Protect market users and the public.**

Outcome Objective 2.1: *Promote compliance with and deter violations of federal commodities laws. (Activities 2.1.1 through 2.1.10)*

Annual Performance Goal: All known possible wrongdoing identified and investigated. All violators brought to justice.

Activity 2.1.1: Identify and investigate possible fraudulent and other illegal activities relating to the commodity futures and option markets and their registrants.*

Activity 2.1.1 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of such investigations opened during the reporting period.	100	23	103	34	33	193	193%
Number of such investigations closed during the reporting period.	TBD	19	18	26	67	130	N/A
Number of such investigations pending at close of the reporting period.	105	83	168	176	142	N/A	N/A
Number of such investigations closed or resulting in the filing of an enforcement case during the reporting period.**	120	20	20	34	67	141	118%
During the reporting period, the total number of such investigations closed or resulting in an enforcement case within one year of opening of the related investigation.	60	13	16	30	44	103	172%

*Individual Enforcement investigations and cases frequently concern issues that span more than one strategic goal. Accordingly, all performance indicators are reflected in each outcome objective achieved through the course of a matter. So, for example, if a case is filed which contains allegations of trade practice violations as well as supervision failures, any performance indicators associated with the case will be reflected in the appropriate places under Goals One, Two, and Three.

** An Enforcement investigation can remain open after a related case has been filed.

Activity 2.1.2: Bring injunctive actions, including using "quick-strike" efforts to protect assets and to stop egregious conduct.

Activity 2.1.2 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of such injunctive cases filed during the reporting period.	12	3	1	6	7	17	142%
Number of such injunctive cases completed during the reporting period.	15	2	1	2	6	11	73%
Number of such injunctive cases pending at close of the reporting period.	39	45	45	49	50	N/A	N/A
During the reporting period, the total number of such injunctive cases filed within one year of the opening of the related investigation.	TBD	3	1	6	6	16	N/A
Number of such injunctive cases filed during the reporting period using "quick-strike" procedures.*	6	2	0	6	4	12	200%

*"Quick-strike" cases are anti-fraud civil injunctive actions filed by the Commission within four months of the opening of the related investigation.

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001*

Goal Two: Protect market users and the public.

Outcome Objective 2.1 (Cont'd.)

Activity 2.1.3: Bring administrative cases involving fraud and other violations.

Activity 2.1.3 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of administrative cases filed during the reporting period.	22	3	3	4	8	18	82%
Number of such administrative cases completed during the reporting period.	24	2	1	2	6	11	46%
Number of such administrative cases pending at the close of the reporting period.	23	22	24	26	28	N/A	N/A
During the reporting period, the total number of such administrative cases filed within one year of opening the related investigation.	11	1	2	3	2	8	73%

Activity 2.1.4: Hear administrative cases.

Activity 2.1.4 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of administrative cases decided during the fiscal year.	30	2	10	3	9	24	80%

Activity 2.1.5: Sanction violators.*

Activity 2.1.5 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of statutory restraining orders obtained.	8	4	0	3	3	10	125%
Number of preliminary injunctions obtained.	8	1	4	5	3	13	163%
Number of permanent injunctions obtained.	20	1	5	1	4	11	55%
Amount of disgorgement and restitution granted.**	\$60,000,000	\$0	\$5,439,353	\$838,212	\$1,409,814	\$7,687,379	13%
Amount of civil monetary penalties granted.***	\$65,000,000	\$110,000	\$11,051,043	\$541,350	\$1,567,481	\$13,269,874	20%
Number of cease and desist orders obtained.	22	1	3	3	6	13	59%
Number of requests for registration restrictions granted.	6	0	3	2	2	7	117%
Number of requests for trading prohibitions granted.	10	1	2	2	3	8	80%

* This Quarterly Performance Review only reflects sanctions that have become final by the close of the reporting quarter. Thus the output measures reported here include only sanctions in settled matters; unappealed decisions of the Commission, US District Courts, or US Circuit Courts of Appeals; and decisions of the US Supreme Court.

**Approximately \$3,090,014 of the total restitution and disgorgement ordered paid in FY 2001 was ordered paid pursuant to multi-year payment plans in which the actual amount paid by the defendant/respondent depends upon the level of his/her income during the period of the payment plan.

***Approximately \$2,504,637 of the total civil monetary penalties ordered paid in FY 2001 was ordered paid pursuant to multi-year payment plans in which the actual amount paid by the defendant/respondent depends upon the level of his/her income during the period of the payment plan.

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001*

Goal Two: Protect market users and the public.

Outcome Objective 2.1 (Cont'd.)

Activity 2.1.6: Inform the public and the industry concerning allegations of wrongdoing and associated legal actions, including through publications and through Commission orders and reports describing the alleged violations and the Commission's legal and policy analysis.

Activity 2.1.6 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of cases decided with published opinions.	11	1	1	2	2	6	55%
Number of cases decided by orders of summary affirmance.	2	0	0	0	2	2	100%

Activity 2.1.7: Collect sanctions and civil monetary penalties against violators.

Activity 2.1.7 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Amount of civil monetary penalties assessed.	TBD	N/A	N/A	N/A	N/A	N/A	N/A
Amount of civil monetary penalties collected.	\$1,600,000	\$60,207	\$255,460	\$151,657	\$2,687,627	\$3,154,951	197%

*Approximately \$30,000 of the total civil monetary penalties ordered paid in FY 2001 was ordered paid pursuant to multi-year payment plans in which the actual amount paid by the defendant/respondent depends upon the level of his/her income during the period of the payment plan.

Activity 2.1.8: Cooperate with the exchanges, the National Futures Association, other federal agencies, state governments and law enforcement entities, and foreign authorities to gain information for law enforcement purposes and to provide enforcement assistance as necessary and appropriate.

Activity 2.1.8 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of enforcement investigations in which resources were expended during the reporting period in cooperative enforcement.	24	4	15	7	6	32	133%
Number of requests for enforcement assistance from foreign authorities during the reporting period.	24	5	2	7	2	16	67%
Number of requests for enforcement assistance made to foreign authorities during the reporting period.	22	11	19	39	20	89	405%

Activity 2.1.9: Monitor the Internet and other communication media for fraudulent activities and other possible violations of the Act.

Activity 2.1.9 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of preliminary inquiries generated from Internet and media monitoring during the reporting period.	62	17	11	11	11	50	81%

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001*

Goal Two: Protect market users and the public.

Outcome Objective 2.1 (Cont'd.)

Activity 2.1.10: Resolve appeals in administrative enforcement matters and self-regulatory organization adjudicatory actions.

Activity 2.1.10 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of administrative enforcement appeals resolved.	13	1	3	3	2	9	69%
Number of administrative enforcement appeals decided during the reporting period that were decided within six months.	3	1	3	3	0	7	233%
Number of SRO adjudicatory action appeals resolved.	3	1	1	1	0	3	100%
Number of SRO adjudicatory action appeals decided during the reporting period that were decided within six months.	1	1	1	1	0	3	300%

Outcome Objective 2.2: *Require commodities professionals to meet high standards. (Activities 2.2.1 through 2.2.3)*

Annual Performance Goal: No unregistered, untested, and unlicensed commodity professionals.

Activity 2.2.1: Oversee the National Futures Association (NFA) registration program, including testing, licensing, and ethics training for commodities professionals.

Activity 2.2.1 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of registered commodity professionals.	65,000	64,795	64,777	64,544	64,991	N/A	N/A
Number of registrants compliant with standards regarding testing, licensing, and ethics training.	64,000	62,850	62,849	63,032	63,662	N/A	N/A
Number of CTA-NFA Registration Working Group meetings.	4	1	1	1	1	4	100%

Activity 2.2.2: Oversee NFA's document disclosure review program.

Activity 2.2.2 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of disclosure documents reviewed.	25	9	6	9	5	29	116%
Number of deficiency letters issued.	5	2	0	0	0	2	40%
Number of CPO and CTA review reports issued.	1	0	0	0	0	0	0%
Number of CPO/CTA interpretations, advisories, and proposed rule changes.	5	2	0	1	0	3	60%

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001*

Goal Two: Protect market users and the public.

Outcome Objective 2.2 (Cont'd.)

Activity 2.2.3: Investigate and bring administrative registration cases arising out of alleged statutory disqualification and obtain suspensions, revocations, conditions, or restrictions of registration.

Activity 2.2.3 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of statutory disqualification investigations opened during the reporting period.	4	2	0	0	0	2	50%
Number of statutory disqualification investigations closed during the reporting period.	TBD	2	0	0	1	3	N/A
Number of statutory disqualification investigations pending at the close of the reporting period.	3	3	3	3	2	N/A	N/A
Number of statutory disqualification investigations closed or resulting in the filing of an enforcement case during the reporting period.*	5	2	0	0	0	2	40%
During the reporting period, the number of statutory disqualification investigations closed or resulting in enforcement case within one year of opening the related investigation.*	3	1	0	0	0	1	33%
Number of statutory disqualification cases filed during the reporting period.	5	0	0	0	2	2	40%
Number of statutory disqualification cases completed during the reporting period.	6	1	0	0	4	5	83%
Number of statutory disqualification cases pending at the close of the reporting period.	10	4	4	4	2	N/A	N/A
During the reporting period the total number of statutory disqualification cases filed within one year of the opening of the related investigation.	3	0	0	0	1	1	33%
Number of respondents/defendants against whom the CFTC's request for registration restrictions has been granted during the reporting period.	6	0	0	0	1	1	17%

* An Enforcement investigation can remain open after a related case has been filed.

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001*

Goal Two: Protect market users and the public.

Outcome Objective 2.3: *Provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Act. (Activity 2.3.1)*

Annual Performance Goal: All customer complaints against persons or firms registered under the Act are resolved within one year from the date filed (does not include appeals).

Activity 2.3.1: Provide a reparations program for commodities market users to make claims relating to violations of the Act.

Activity 2.3.1 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of reparations complaints filed during the reporting period.	112	22	24	32	31	109	97%
Number of reparations complaints forwarded for hearing as cases during the reporting period.	100	36	12	16	26	90	90%
During the reporting period the number of reparations complaints resolved within one year of filing date.	70	13	14	16	7	50	71%
During the reporting period the number of appeal cases decided that were decided within six months.	2	2	1	1	0	4	200%
Number of appeals resolved during the reporting period.	20	3	1	4	6	14	70%

Goal Three: Foster open, competitive, and financially sound markets.

Outcome Objective 3.1: *Ensure sound financial practices of clearing organizations and firms holding customer funds. (Activities 3.1.1 through 3.1.5)*

Annual Performance Goal: No loss of customer funds as a result of firms' failure to adhere to regulations. No customers prevented from transferring funds from failing firms to sound firms.

Activity 3.1.1: Promulgate regulations to ensure sound business, financial, and sales practices in firms participating in the commodities industry.

Activity 3.1.1 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of firms required to transfer customer accounts.	TBD	0	0	0	0	0	N/A
Amount of customer funds lost.	TBD	0	0	0	0	0	N/A

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001***Goal Three: Foster open, competitive, and financially sound markets.***Outcome Objective 3.1 (Cont'd.)***Activity 3.1.2: Review and oversee self-regulatory organization audit and financial practices.**

Activity 3.1.2 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of oversight audits.	50	3	6	16	5	30	60%
Number of financial investigative reviews.	10	2	4	5	2	13	130%
Number of financial reports processed.	5,000	776	1,883	1,992	915	5,566	111%
Number of financial reports resulting in follow-up inquiries. *	200	34	20	20	128	202	101%

* Follow-up on Notices of Capital Reduction and other notices under Rule 1.12.

Activity 3.1.3: Identify and investigate possible financial, capitalization, segregation, and supervision violations for possible prosecution.*

Activity 3.1.3 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of such investigations opened during the reporting period.	19	9	3	4	5	21	111%
Total number of such investigations closed during the reporting period.	TBD	5	5	7	12	29	N/A
Number of such investigations pending at the close of the reporting period.	30	30	28	25	18	N/A	N/A
Number of such investigations closed or resulting in the filing of an enforcement case during the reporting period.**	24	5	7	14	12	38	158%
During the reporting period, the total number of such investigations closed or resulting in an enforcement case within one year of the opening of the related investigation.**	8	4	5	11	4	24	300%

*Individual Enforcement investigations and cases frequently concern issues that span more than one strategic goal. Accordingly, all performance indicators are reflected in each outcome objective achieved through the course of a matter. So, for example, if a case is filed which contains allegations of trade practice violations as well as supervision failures, any performance indicators associated with the case will be reflected in the appropriate places under Goals One, Two, and Three.

** An Enforcement investigation can remain open after a related case has been filed.

Activity 3.1.4: Bring cases concerning financial, capitalization, segregation, and supervision violations.

Activity 3.1.4 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Total number of such cases filed during the reporting period.	11	4	3	10	8	25	227%
Number of such cases completed during the reporting period.	TBD	2	2	2	8	14	N/A
Number of such cases pending at the close of the reporting period.	39	38	39	47	47	N/A	N/A
During the reporting period, the total number of such cases filed within one year of the opening of the related investigation.	3	2	2	9	3	16	533%

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001***Goal Three: Foster open, competitive, and financially sound markets.***Outcome Objective 3.1 (Cont'd.)***Activity 3.1.5: Sanction violators.***

Activity 3.1.5 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Amount of disgorgement and restitution ordered.**	\$35,000,000	\$0	\$106,638	\$825,982	\$1,100,535	\$2,033,155	6%
Amount of civil monetary penalties ordered.***	\$14,000,000	\$0	\$375,000	\$486,350	\$2,906,452	\$3,767,802	27%
Number of cease and desist orders.	16	0	3	2	3	8	50%
Number of respondents/defendants whose registrations were ordered restricted.	13	0	4	2	1	7	54%

* This Quarterly Performance review only reflects sanctions that have become final by the close of the reporting quarter. Thus, the output measures reported here include only sanctions in settled matters; unappealed decisions of the Commission, US District Courts, or US Circuit Courts of Appeals; and decisions of the US Supreme Court.

**Approximately \$843,970 of the total disgorgement and restitution ordered paid in FY 2001 was ordered paid pursuant to multi-year payment plans in which the actual amount paid by the defendant/respondent depends upon the level of his/her income during the period of the payment plan.

***Approximately \$1,589,637 of the total civil monetary penalties ordered paid in FY 2001 was ordered paid pursuant to multi-year payment plans in which the actual amount paid by the defendant/respondent depends upon the level of his/her income during the period of the payment plan.

Outcome Objective 3.2: *Promote and enhance effective self-regulation of the commodity futures and option markets. (Activities 3.2.1 through 3.2.6)*

Annual Performance Goal: No loss of customer funds resulting from failure of self-regulatory organizations to ensure compliance with its rules.

Activity 3.2.1: Review and approve self-regulatory organization rules and rule amendments

Activity 3.2.1 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of SRO rule submissions reviewed.	350	53	48	61	226	388	111%
Number of SRO rule amendments reviewed.	730	543	95	390	1,363	2,391	328%

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001***Goal Three: Foster open, competitive, and financially sound markets.***Outcome Objective 3.2 (Cont'd.)*

Activity 3.2.2: Conduct rule enforcement reviews of self-regulatory organizations (financial practices, sales practices, trade practices, and audit trail).

Activity 3.2.2 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of rule enforcement reviews conducted.	7	0	1	4	2	7	100%
Number of rule enforcement recommendations for improvement made.	TBD	0	0	7	3	10	N/A

Activity 3.2.3: Review and oversee self-regulatory organization audit and financial practices.

Activity 3.2.3 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of oversight audits.	50	3	6	16	5	30	60%
Number of financial investigative reviews.	10	2	4	5	2	13	130%
Number of financial reports processed.	5,000	776	1,883	1,992	915	5,566	111%
Number of financial reports resulting in follow-up inquiries. *	200	34	20	20	128	202	101%

* Follow-up on Notices of Capital Reduction and other notices under Rule 1.12.

Activity 3.2.4: Review adequacy of self-regulatory organization disciplinary actions.

Activity 3.2.4 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of self-regulatory disciplinary actions reviewed.	500	130	119	164	171	584	117%

Activity 3.2.5: Conduct direct audits of clearing organizations and firms handling customer money to ensure compliance with capitalization and segregation rules.

Activity 3.2.5 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of direct audits of clearing organizations and firms handling customer money.	30	0	6	6	3	15	50%
Number of audited clearing organizations.	TBD	0	2	0	0	2	N/A
Number of audited clearing organizations in compliance with segregation rules.	TBD	0	1	0	0	1	N/A

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001***Goal Three: Foster open, competitive, and financially sound markets.***Outcome Objective 3.2 (Cont'd.)***Activity 3.2.6: Promulgate regulations to ensure effective self-regulation by exchanges, clearing organizations, and registered futures associations.**

Activity 3.2.6 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of newly promulgated CFTC regulations requiring SRO implementation.	TBD	1	0	0	2	3	N/A

Outcome Objective 3.3: *Facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions. (Activities 3.3.1 through 3.3.5)***Annual Performance Goal:** All requests for information sharing under agreements honored, and new agreements pursued as warranted. All requests for relief responded to within Commission guidelines.**Activity 3.3.1: Coordinate and cooperate with global financial services regulators to share vital information concerning markets, intermediaries, and regulatory structure.**

Activity 3.3.1 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of requests from foreign authorities received.	200	49	51	100	43	243	122%
Number of requests from foreign authorities honored by CFTC.	200	49	51	100	43	243	122%
Number of requests made to foreign authorities.	150	71	61	50	28	210	140%
Number of CFTC requests honored by foreign authorities.	150	71	61	50	28	210	140%
Average response time.	2 days	2 days	3 days	2 days	2 days	2.5 days	N/A

Activity 3.3.2: Coordinate and cooperate with global financial services regulators to develop appropriate global standards and arrangements in the commodities industry as markets emerge and evolve.

Activity 3.3.2 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of global standards, arrangements or initiatives developed.	2	2	0	0	1	3	150%
Number of global standards, arrangements or initiatives adopted.	2	2	0	0	1	3	150%

Activity 3.3.3: Participate in the International Organizations of Securities Commissions and represent the Commission at international meetings concerning commodity regulation.

Activity 3.3.3 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of IOSCO and related international meetings held.	30	10	5	5	6	26	104%
Number of IOSCO and related international meetings attended by CFTC.	30	10	5	5	6	26	104%

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001***Goal Three: Foster open, competitive, and financially sound markets.***Outcome Objective 3.3. (Cont'd.)*

Activity 3.3.4: Participate in the President's Working Group on Financial Markets to ensure coordination of information and efforts among US financial regulators.

See Activity 1.2.1 for annual targets.

Activity 3.3.5: Provide exemptive, interpretive, or other relief as appropriate to foster the development of innovative transactions, trading systems, and similar arrangements.

Activity 3.3.5 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of requests for exemptive, interpretive, or other relief.	270	59	58	74	53	244	90%
Number of CFTC responses to such requests.	255	56	55	68	50	229	90%
Average response time.	6 weeks	6 weeks	6 weeks	5 weeks	5 weeks	N/A	N/A

Outcome Objective 3.4: Promote markets free of trade practice abuses. (Activities 3.4.1 through 3.4.4)

Annual Performance Goal: No trade practice abuses.

Activity 3.4.1: Identify possible trade practice violations for investigation and possible enforcement proceedings.

Activity 3.4.1 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of trade practice investigations completed.	100	30	30	47	22	129	129%
Number of possible trade practice violations referred to SROs and/or to Division of Enforcement for investigation.	27	10	5	2	3	20	74%

Activity 3.4.2: Investigate possible trade practice violations.

Activity 3.4.2 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of such investigations opened during the reporting period.	12	4	3	5	3	15	125%
Number of investigations closed during the reporting period.	TBD	1	0	2	6	9	N/A
Number of investigations pending at the close of the reporting period.	15	16	19	22	19	N/A	N/A
Number of investigations closed or resulting in the filing of an enforcement case during the reporting period.*	12	1	2	3	6	12	100%
During the reporting period, the total number of investigations closed or resulting in an enforcement case within one year of opening of the related investigations.*	6	0	2	2	1	5	83%

* An Enforcement investigation can remain open after a related case has been filed.

Analysis of Annual Performance Statistics By Agency Goal: *Fourth Quarter, 2001***Goal Three: Foster open, competitive, and financially sound markets.***Outcome Objective 3.4. (Cont'd.)***Activity 3.4.3: Bring cases concerning trade practice violations.**

Activity 3.4.3 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Total number of such cases filed during the reporting period.	2	1	2	1	3	7	350%
Number of such cases completed during the reporting period.	2	0	0	1	1	2	100%
Number of such cases pending at the close of the reporting period.	12	10	12	12	14	N/A	N/A
During the reporting period, the total number of such cases filed within one year of the opening of the related investigation.	0	0	2	1	1	4	N/A

Activity 3.4.4: Bring enforcement proceedings against violators.

Activity 3.4.4 Output Measures:	FY 2001 Target	Qtr. 1 Actual	Qtr. 2 Actual	Qtr. 3 Actual	Qtr. 4 Actual	FY 2001 Actual	%
Number of statutory restraining orders granted.	0	0	0	0	0	0	--
Number of preliminary injunctions obtained.	0	0	0	0	0	0	--
Number of permanent injunctions obtained.	0	0	0	0	0	0	--
Amount of restitution and disgorgement granted.	\$100,000	\$0	\$19,900	\$18,750	\$7,700	\$46,350	46%
Amount of civil monetary penalties granted.*	\$1,000,000	\$0	\$320,004	\$30,000	\$2,335,000	\$2,685,004	269%
Number of cease and desist orders obtained.	4	0	1	1	3	5	125%
Number of requests for registration restrictions granted.	4	0	1	1	1	3	75%
Number of requests for trading prohibitions granted.	4	0	1	1	3	5	125%

*Approximately \$30,000 of the total civil monetary penalties ordered paid in FY 2001 was ordered paid pursuant to multi-year payment plans in which the actual amount paid by the defendant/respondent depends upon the level of his/her income during the period of the payment plan.